

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Federal-State Joint Board on Universal Service:)
Recommendations for Phasing Down Interim)
Hold-Harmless Provision)

CC Docket No. 96-45

REPLY OF PUERTO RICO TELEPHONE COMPANY, INC.

Puerto Rico Telephone Company, Inc. ("PRTC"), by its attorneys, hereby replies to comments filed in response to its petition for reconsideration of the Commission's decision to phase-down hold harmless support through one-dollar reductions in average monthly, per-line support in each PRTC study area beginning January 1, 2001.¹ As PRTC described in its January 17, 2001 Petition, this phase down would repeat annually until the support is eliminated, with high cost support to a majority of PRTC's lines being eliminated after the second year of the phase down. To address the potential adverse impact on universal service, PRTC has proposed that phase-down be postponed until a review of the model mechanism is completed in 2003, or, in the alternative, that the Commission determine reductions in per-line hold-harmless support on a wire center basis, consistent with the current universal service rules.

The Telecommunications Regulatory Board of Puerto Rico ("Puerto Rico Board") "strongly supports" PRTC's latter proposal and "recommends that the Commission modify its

¹ Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Thirteenth Report and Order and Further Notice of Proposed Rulemaking, FCC 00-428 (rel. Dec. 8, 2000) ("USF Thirteenth Report and Order"); 65 Fed. Reg. 78990 (Dec. 18, 2000).

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phase-down mechanism to be consistent with its cascade distribution mechanism.”² In contrast, AT&T and WorldCom oppose PRTC’s petition, but these parties fail to explain why it is appropriate to deny universal service support using a methodology that is inconsistent with existing rules and to impose this burden on consumers where the total service penetration rate is currently below 75 percent. The position advocated by AT&T and WorldCom is contrary to public policy and with the basic purpose of universal service, and the Commission should grant PRTC’s Petition for Reconsideration.

I. COMMENTERS DO NOT REBUT PUERTO RICO’S CONTINUED NEED FOR UNIVERSAL SERVICE SUPPORT

WorldCom opposes PRTC’s request to postpone the hold harmless phase down, claiming that “PRTC fails show [sic] it will suffer a rate shock that is either unusually large per line, or that is unique compared to other carriers.”³ AT&T sounds a similar theme, declaring that “PRTC has shown no basis for . . . delaying the transition to the new forward-looking cost mechanism.”⁴ To the contrary, Puerto Rico’s continued need for universal service support is evident from the record in this proceeding. Puerto Rico’s current subscribership rate is approximately 74 percent,⁵ while the national subscribership rate exceeds 94 percent.⁶ Indeed,

² Comments of Telecommunications Regulatory Board of Puerto Rico (filed Jan. 29, 2001) at 3 (“Puerto Rico Board Comments”).

³ Opposition of WorldCom, Inc. (filed Apr. 2, 2001) at 3 (“WorldCom Opposition”).

⁴ Opposition of AT&T, Corp. (filed Apr. 2, 2001) at 4 (“AT&T Opposition”).

⁵ See Letter from Tina M. Pidgeon, Drinker Biddle & Reath LLP, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket No. 96-45 (Jan. 29, 2001); PRTC Percentage of Households with a Telephone, December 2000 (attached hereto).

⁶ Telephone Subscribership in the United States (Ind. Anal. Div., Com. Car. Bur. rel. Mar. 2001), Table 1 at 6.

the Puerto Rico Board recently reported the results of its own extensive field study, by which it concluded telephone subscribership in Puerto Rico to be 74.5 percent.

The issue of telephone subscribership in Puerto Rico should be one of serious concern to regulators and carriers alike. WorldCom, however, declares that “[t]he loss of a subsidy may be made up through higher per line charges on subscribers.”⁷ Yet, these are the very subscribers — and non-subscribers — that can least afford higher charges. According to the Puerto Rico Board, the loss in support (that WorldCom proposes be offset by higher rates to consumers) would be “unduly severe and has the potential for undue rate shock.”⁸ Against this background, it is plain that the Commission’s prior conclusion that the hold harmless phase down “balances the need to phase down interim hold-harmless support in an equitable way with a desire to minimize potential rate shock for Puerto Rico” is unsustainable. Instead, the potential for rate shock and the impact on subscribership in Puerto Rico requires that the Commission coincide implementation of the phase down with review of the forward-looking mechanism, which is to be completed in less than two years.

II. THE PHASE-DOWN MECHANISM AS ADOPTED IS CONTRARY TO UNIVERSAL SERVICE PRINCIPLES AND RULES

WorldCom claims that PRTC’s alternative proposal to implement the hold harmless phase down on a wire center basis “cannot be reliably implemented.”⁹ Specifically, WorldCom

⁷ WorldCom Opposition at 3. WorldCom’s analysis that PRTC’s loss of support is “comparable” to that of other parties does not withstand scrutiny. The high cost support amount eliminated as of January 1, 2001, for Puerto Rico based on PRTC’s line count was \$15,465,228,⁷ seven times more than the next highest loss. Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Thirteenth Report and Order and Further Notice of Proposed Rulemaking, FCC 00-428 (rel. Dec. 8, 2000) at Appendix C.

⁸ Puerto Rico Board Comments at 4.

⁹ WorldCom Opposition at 4.

objects that the Commission and companies do not have embedded cost data at the wire center level. WorldCom's opposition to PRTC's wire center phase down proposal is inconsistent with the Commission's cascade rule and WorldCom's own support for PRTC's transition to this same forward-looking cost model. Under Section 54.311(b) of the Commission's rules, hold-harmless support is distributed first to wire centers with the highest forward-looking economic cost per-line. Thus, the Commission has already determined that hold harmless amounts would be distributed on a wire center basis by according to costs predicted by the forward-looking model without regard for carrier records on a wire center basis, so there is no basis for refusing to apply the phase down in the same manner. WorldCom also objects to PRTC's proposal for a wire center phase down because companies do not "keep data on that basis."¹⁰ PRTC knows of no company that keeps "forward-looking" data, but WorldCom apparently does not find the lack of such data to be troublesome when advocating carrier transition to the forward-looking model methodology. WorldCom's inconsistent position provides no basis for the Commission to adopt WorldCom's reasoning on either the matter of postponing PRTC's hold harmless transition or its wire center phase down proposal.

In contrast, the Puerto Rico Board expresses its firm support for PRTC's wire center phase down proposal based on the Board's own investigation. The Board reports

Approximately one-half of the reported lines in the [PRTC] large study area receive all hold harmless support for the study area. The effect of not having the phase-down approach consistent with the distribution method is that end-user customers in targeted wire centers will realize nearly a \$2.00 per line per month reduction in hold harmless support during the phase-down period. The Board considers a nearly 100 percent increase in the reasonable \$1.00 per line per month reduction adopted by the Commission to be unduly severe and has the potential for undue rate shock.¹¹

¹⁰ WorldCom Opposition at 4.

¹¹ Puerto Rico Board Comments at 4.

As a result, the Board recommends both that the Commission modify its phase-down approach to apply only to these lines that receive support under the cascading requirement and to ensure that any reduction per line does not exceed the amount of support for that line.¹² Contrary to WorldCom's claim,¹³ the adoption of PRTC's proposal will provide a real benefit to Puerto Rico consumers (over 500,000 lines) who reside in areas where support must be targeted in accordance with the Commission's rules. In the absence of a postponed phase down, only the wire center phase down will "ensure a prompt, equitable phase-down of interim hold-harmless support without causing undue rate disruption."¹⁴

III. PARTIES AGREE THAT A PHASE DOWN MUST BE COMPETITIVELY NEUTRAL

In its Petition, PRTC also requested that if the Commission does not reconsider its decision to phase down hold harmless support, then it should clarify that the phase down shall apply to all carriers receiving such support, not just incumbent local exchange carriers. Both the Puerto Rico Board and WorldCom agree that competitive neutrality is required and intended by the Commission.¹⁵ Any phase-down methodology must apply to competitive carriers in the same manner as applied to incumbent carriers.

¹² Id.

¹³ WorldCom Opposition at 4 ("it is highly improbable that PRTC would gain much if the Commission were to reduce support on a wire center basis").

¹⁴ USF Thirteenth Report and Order at ¶ 1.

¹⁵ See Puerto Rico Board Comments at 5; WorldCom Comments at 5.

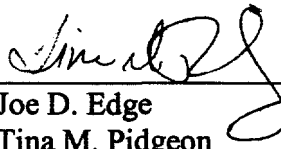
IV. CONCLUSION

PRTC respectfully requests that the phase down of high cost support be postponed for Puerto Rico until the Commission completes review of the forward-looking mechanism on January 1, 2003. As explained in PRTC's Petition for Reconsideration, this approach is consistent with the Commission's treatment of Long Term Support, coincides with the Commission's plan for review of the model, and satisfies the public interest in encouraging increased subscribership in Puerto Rico. In the alternative, the Commission should apply its phase-down schedule on a wire center, rather than a study area basis. The Puerto Rico Board agrees that reducing support on a study area basis and targeting support on a wire center basis increases the possibility for rate shock by eliminating support to end users in excess of \$1.00 per month, contrary to the Commission's intent. Finally, any support reductions must be applied in a competitively neutral manner, reducing support to incumbents and competitors alike that serve study areas where hold harmless support is subject to the phase down.

Respectfully submitted,

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PERCENTAGE OF HOUSEHOLDS WITH A TELEPHONE DECEMBER 2000

CERTIFICATE OF SERVICE

I, Colleen A. Mulholland, certify that a copy of the foregoing Reply of Puerto Rico Telephone Company, Inc. was mailed by first-class mail, postage pre-paid, on this 12th day of April, 2001 to each of the following individuals or entities (unless otherwise indicated):

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